



GSA Office of Technology Transformation Services

# GSA Rulemaking Services

February 8, 2023



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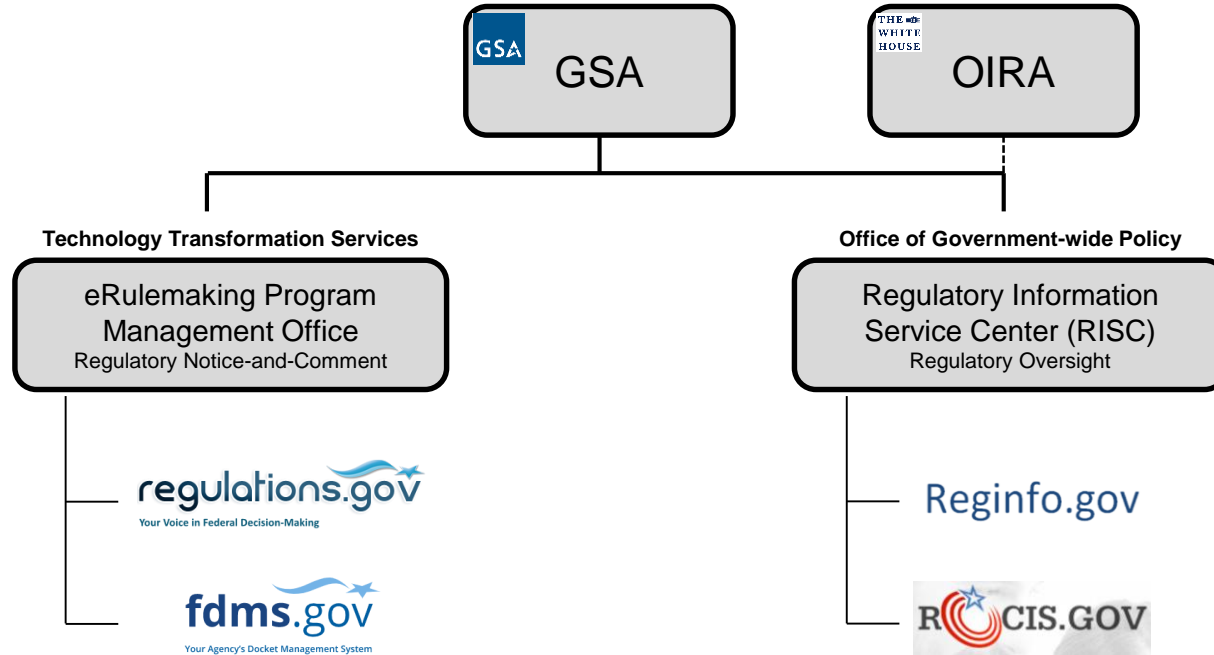
# AGENDA

- Overview of GSA Rulemaking IT Services
- Rulemaking Overview
- Deeper Dive – eRulemaking
- Deeper Diver – Regulatory Information Service Center (RISC)
- Discussion

# Overview

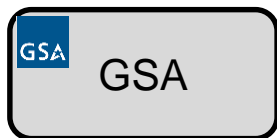
## GSA Rulemaking Services

# GSA Rulemaking IT Services



# Other Rulemaking and Regulatory IT Services

Dockets and comments  
for rulemaking actions



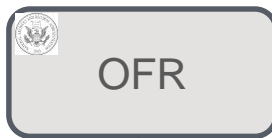
**fdms.gov**  
Your Agency's Docket Management System

**regulations.gov**  
Your Voice in Federal Decision-Making

**Reginfo.gov**



Public notice of  
rulemaking actions



**FEDERAL REGISTER**  
The Daily Journal of the United States Government

Codified regulations  
at a point in time



**Code of Federal Regulations**  
A point in time eCFR system



# Rulemaking Overview

# Administrative Law



## ADMINISTRATIVE PROCEDURE ACT

[PUBLIC LAW 404—79TH CONGRESS]

[CHAPTER 324—2D SESSION]

[§. 7]

AN ACT To improve the administration of justice by prescribing fair administrative procedure

§ 553 - “...General notice of proposed rule making shall be published in the Federal Register...” “...After **notice** required by this section, the agency shall give interested persons an opportunity to participate in the rule making through **submission** of written data, views, or arguments with or without opportunity for oral presentation...”

“...After **consideration of the relevant matter presented**, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose.”

### Related Statutes:

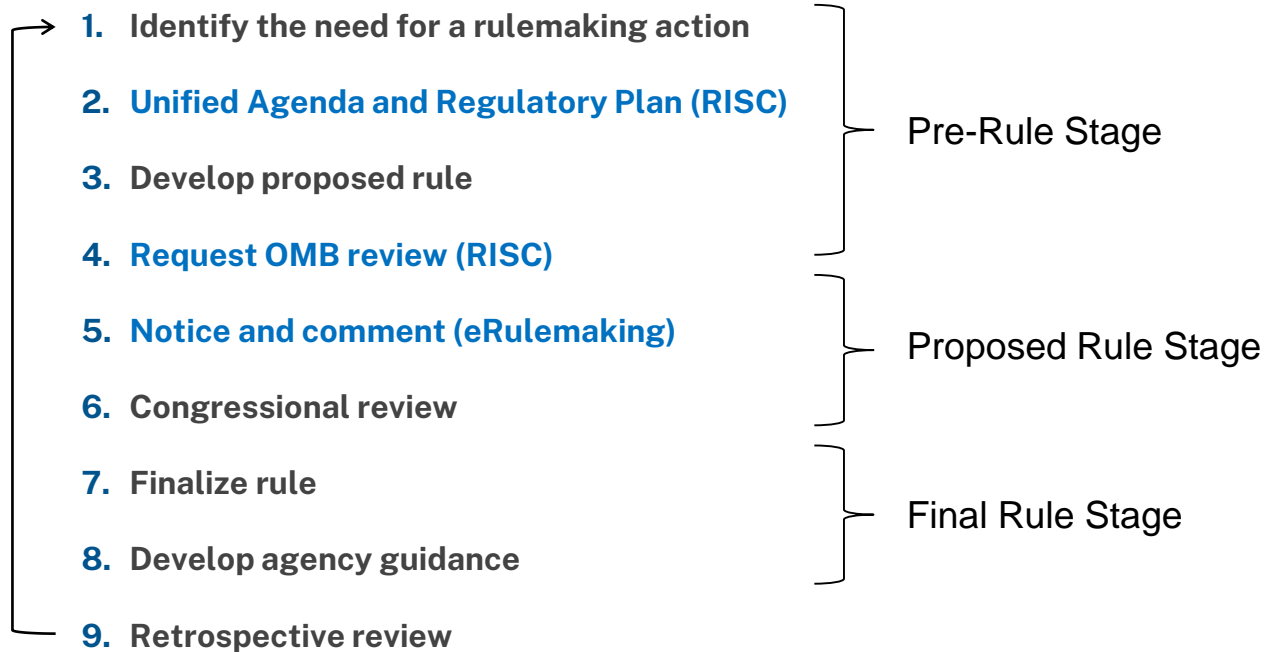
- E-Government Act
- Regulatory Flexibility Act
- Paperwork Reduction Act
- Unfunded Mandates Reform Act
- Congressional Review Act

### Related Executive Orders (EOs) and Policies:

- EO 12866, Regulatory Planning and Review, and Amendments
- EO 13563, Improving Regulation and Regulatory Review
- EO 13579, Regulation and Independent Regulatory Agencies
- EO 13610, Identifying and Reducing Regulatory Burdens
- Jan 20, 2021 Memorandum on Modernizing Regulatory Review



# Rulemaking Stages



# 1 – Identify the need for a rulemaking action

## **Authority:**

- Agencies get their authority to issue regulations from laws enacted by Congress
- In some cases, the President may delegate existing Presidential authority to an agency
- An agency must not take action that goes beyond its statutory authority or violates the Constitution

## **Identifying the need for a rulemaking action:**

Congress may pass a law that directs an agency to take action on a certain subject and set a schedule for the agency to follow in issuing rules. More often, an agency surveys its area of legal responsibility, and then decides which issues or goals have priority for rulemaking. Agencies may also consider non-regulatory alternatives. Factors that an agency may consider:

- New technologies or new data on existing issues
- Emergent problems affecting society
- Oversight, including Congress, Government Accountability Office, or Federal Advisory Committees
- Executive branch drivers, including Presidential Directives and requests from other agencies
- Public petition for rulemaking, including interest groups, corporations, and members of the public
- Retrospective reviews

# 2 – Unified Agenda and Regulatory Plan (RISC)

- **Unified Agenda**

- Semiannual compilation of regulations under development
- Published in the spring and fall
- EO 12866 establishes minimum standard for agencies' agendas
- Regulatory flexibility agendas (impacts on small businesses) if required by Regulatory Flexibility Act

- **Regulatory Plan**

- Included with the fall edition of the Unified Agenda
- Most **significant** actions for coming year
- Agencies **may** also include:
  - Long-term actions - forecast of actions more than 12 months out
  - Completed actions – finalized or withdrawn regulatory actions

# 3 – Develop proposed rule

- **Process**

- Discretionary internal agency processes managed by Regulatory Secretariat or similar office
  - Tiering
  - Integrated project teams: Oversight, implementation, enforcement, economists, and specialty/regional offices
  - Internal status tracking
- Incorporates mandatory legal and policy requirements
  - Designation of Regulatory Policy Officer (RPO) and representative to Regulatory Working Group – EO 12866
  - Applicability of other governing statutes and requirements

- **Analysis**

- Economic analysis: Significant regulatory actions under EO 12866 or major rules under the Congressional Review Act. Annual effect on economy of \$100M or other adverse impacts, cross-domain inconsistency, alteration of entitlements, or novel policy issues.
- Burden analysis: Information Collection Requests under the Paperwork Reduction Act.
- Cumulative regulatory burden
- Determining factors for other mandates under other statutes, EOs, and OMB circulars/memos

- **Early external consultation and internal executive guidance**

## 4 – Request OMB Review (RISC)

- **Determine if OMB review is required under EO 12866 (Significant rule)**
- **90 day review period**
- **Address OMB comments**

# 5- Notice and Comment (eRulemaking)

- Internal agency approval
- Establish docket
- Publish notice in the Federal Register
  - Advance notice of proposed rulemaking
  - Notice of proposed rulemaking
- Review and publish comments
- Consider relevant matter presented
- Develop response to comments and publish the final rule

# 6 – Congressional review

## Within requirements of Congressional Review Act:

- **Submission to Congress and the Government Accountability Office (GAO)**
- **Enforcement of effective dates for “major rules”:** Cannot take effect until 60 days after publication of final rule.
- **Potential for a joint resolution:** disapprove a particular rule within a specified period of time and have that joint resolution considered using expedited procedures

# 7 – Finalize rule

- Rule report submitted to Congress
- Final rule published in FR
- Includes statement on consideration of comments
- Incorporated into the Code of Federal Regulations



# 8 – Develop agency guidance

- **Implementation guidance**
- **Interpretations**

# 9 – Retrospective Review

- **OMB Circular A-4** – Regulatory Analysis
- **EO 13610** – Identifying and Reducing Regulatory Burdens
- **Paperwork Reduction Act** - Periodic reviews of Information Collection Requests

# Deeper Dive eRulemaking

# Deep Dive on Comment Analysis

Regulatory  
Agencies



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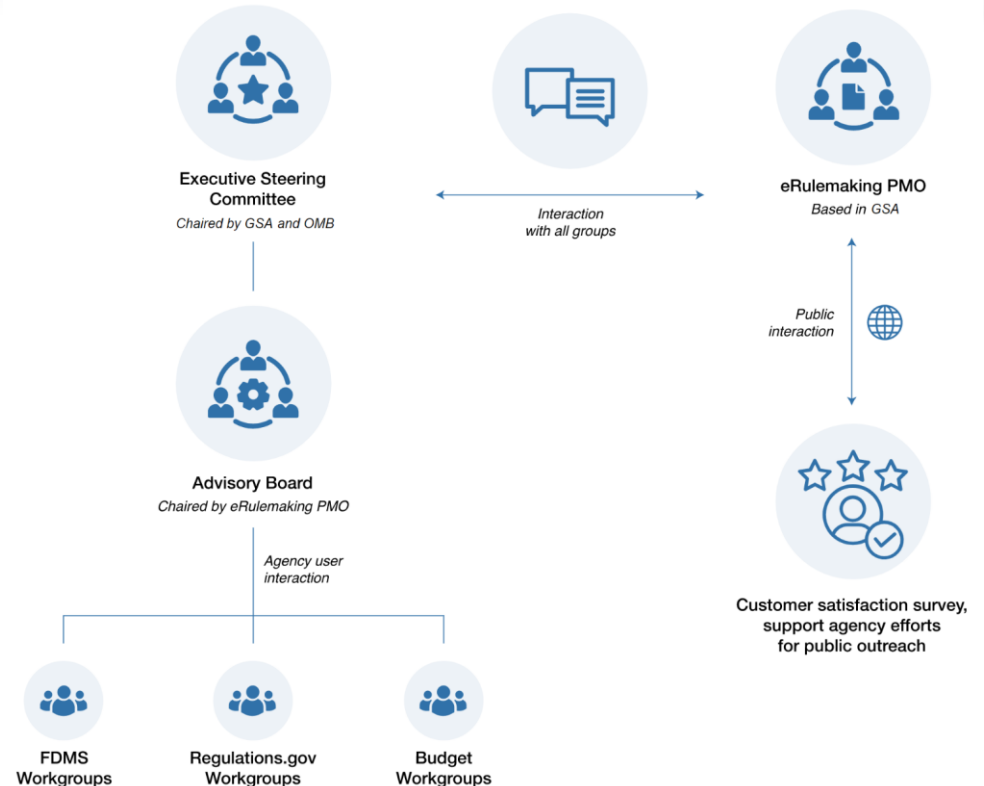
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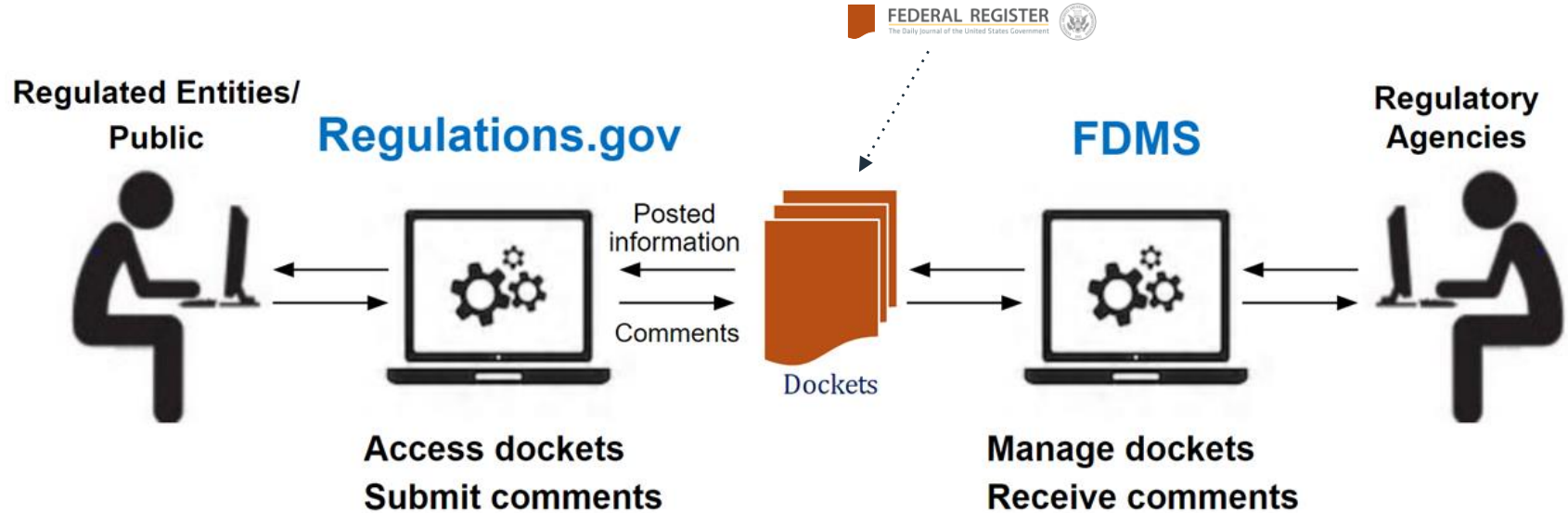
# eRulemaking Governance

eRulemaking was one of the original lines of business from the E-Government Act of 2002

- Voluntary partnership
- GSA is the managing partner
- WCF funded through agency contributions
- 46 partner agencies



# eRulemaking services



# Regulations.gov Demonstration

# Deeper Dive RISC



# Functions supported by ROCIS

1. **The Regulations module** allows OIRA to meet its responsibilities under EO 12866, “Regulatory Planning and Review.”
2. **The Unified Agenda module** allows agencies to provide regulatory data for publication in the Unified Agenda and Regulatory Plan.
3. **The Privacy module** is the primary means by which agencies perform Privacy Act related tasks. Agencies create and receive approval for actions surrounding the creation of System of Records Notice (SORN), and Matching Agreements (MA).
4. **The Paperwork Reduction Act (PRA) module:** Agencies submit their Information Collection Requests (ICRs), as well as requests for change, discontinuation, transfer, and emergency extension, for OIRA review. ROCIS allows comments from the public to be collected for agency and OIRA review.
5. **The Administration Module** allows the administrators and their designees the ability to create, assign roles, update profiles and broadcast messages for all of the ROCIS Modules.

# Functions supported by Reginfo

- **Unified Agenda**

- Current unified agenda and regulatory plan
- Historical unified agenda and regulatory plan
- Completed and inactive actions
- Search and reporting features

- **Regulatory Review**

- Regulatory review dashboard
- Federal regulatory review
- EO 12866 regulatory review
- Review counts
- OIRA letters
- EO 12866 meeting requests with OIRA
- Search and reporting features

- **Information Collection Review (ICR)**

- ICR Dashboard
- ICR Database
- Public comment on ICRs features
- Search and reporting features

- **General**

- Frequently Asked Questions
- Resources
- Contact information

# Reginfo.gov Demonstration

# Discussion